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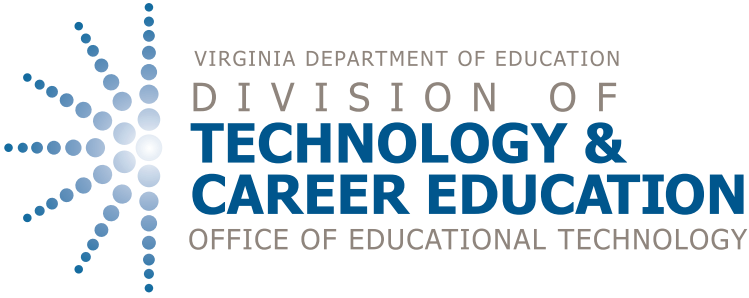
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§18.2-374.1:1 (a) Possession, reproduction, distribution, and facilitation of child pornography  
§18.2-374.1:1 (c) Possession, reproduction, distribution, and facilitation of child pornography  
§18.2-374.3 Use of communications systems to facilitate certain offenses involving children  
§18.2-376.1 Enhanced penalties for using a computer in certain violations  
§18.2-152.7:1 Harassment by computer



Information  
Brief

OCTOBER • 2009

Sexting: Implications for Schools

Definition

The National Center for Missing and Exploited Children (2009) defines *sexting* as “youth writing sexually explicit messages, taking sexually explicit photos of themselves or others in their peer group, and transmitting those photos and/or messages to their peers.” Although this behavior may not be criminal in intent, it can be construed as such under current laws. Importantly, two behaviors that might look like sexting are more likely to be considered criminal activities: (1) when a child sends a sexually explicit photo to an adult and (2) when a child sends sexually explicit photos because they have been coerced or enticed to do so.

Sexting is most frequently associated with cell phones; although, other technologies can be used as well. Cell phones are ideal for sexting since they can both take and distribute photos (via text messaging). As the price of these devices continues to fall, more and more students will have access to phones with advanced features and unlimited texting.

Examples and Impact

The media recently has detailed several sexting incidents:

- In Florida, an 18-year-old boy sent nude photos of an ex-girlfriend to many people (including the girl’s parents). He is now registered as a sex offender.
- An 18-year-old girl in Ohio committed suicide after being taunted by classmates when a nude photo she sent to a boyfriend was shared with others and posted on a Web site.
- Two Spotsylvania 16-year-old boys solicited and shared nude pictures from several girls younger than themselves.
- In a Pennsylvania school district, 20 students were threatened

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with prosecution for sharing semi-pornographic images; later, a 14-year-old girl was contacted by a 52-year-old man from Georgia, who asked her to send him more explicit images.

- A 12-year-old girl in Arizona borrowed a friend's cell phone, took lewd images of herself, and sent them to several classmates.
- Two 17-year-old Wisconsin boys were charged with defamation of character after obtaining, printing, and posting nude photos sent from a girl to her boyfriend.
- In Indiana, students passed around a secretly taped cell phone video of a 15-year-old boy and a 14-year-old girl having sex at a party.

Other incidents seem to go beyond sexting:

- A 24-year-old Virginia Beach man solicited a nude picture from a 16-year-old Louisa girl.
- A 17-year-old boy collected nude photos of classmates and traded them on the Internet with an older man in the United Kingdom.

The motivations for sexting are as varied as these incidents. It can start as a joke, a way of bullying someone, or an attempt to gain the attention of a certain person. What may begin as a spur of the moment decision for a teenager can spin completely out of their control.

A study from the Pew Internet and American Life Project (2008) indicates that a vast majority of American youth use cell phones:

- Among 12-13 year olds, 52% had a cell phone.
- At age 14, mobile phone ownership jumped to 72%.
- At age 17, more than eight in ten teens (84%) had their own cell phones.
- Similarly, daily use of text messaging among teens increased from 27% in 2006 to 38% in 2008.

A study by The National Campaign to Prevent Teen and Unplanned Pregnancy and Cosmogirl.com (n.d.) noted the following:

- 39% have sent sexually suggestive messages to others.
- 38% of girls and 39% of boys have had sexually suggestive messages intended for someone else shared with them.
- 20% of teens have sent/posted nude or semi-nude photos or videos of themselves.
- 71% of girls and 67% of boys sent nude or semi-nude photos or videos to a current boyfriend or girlfriend.
- 21% of girls and 39% of boys sent nude or semi-nude photos or videos to someone they wanted to date or hook up with.
- 25% of girls and 33% of boys have had nude or semi-nude images intended for someone else shared with them.

In a recent study by Cox Communications (2009), about 19% of students admitted to sexting. The survey also reported these data:

- 9% had sent a sexting message.
- 17% had received a sexting message.
- 3% had forwarded a sexting message.
- 60% of those sending sexting messages had sent them to boyfriends or girlfriends.
- 11% of those sending sexting messages had sent them to someone they did not know.
- 14% of those sending sexting messages were caught (mostly by parents).

Even though 20% of teens have sent or posted nude or semi-nude photos or videos of themselves, some 80% have not participated in this type of behavior. This fact is significant considering the amount of peer pressure that sways actions in middle and high school.

Implications for Schools

Sexting currently is an accepted behavior among many teens; however, the negative results of sending nude pictures and/or racy messages via cell phone text messages are becoming more widely known. As students learn more about the repercussions, it is likely only those attracted to risky behavior or pushing boundaries will continue sexting.

Still, sexting should not be ignored by parents, schools, or the community. Its roots lie in basic attitudes, which must be addressed if teens are to develop the community values of empathy, compassion, and respect for others. Parents, schools, and communities must set clear expectations and limits to ensure that all students understand that sexting is a much more complicated behavior than may seem apparent.

The legal consequences of sexting are also a serious concern. Producing, storing, or sharing lewd or explicit pictures of minors is against the law in Virginia—sections 18.2-374.1 and 18.2-374.1:1 of the criminal *Code of Virginia* are felonies that apply to students merely possessing such images on their cell phones, sharing them with other students via cell phone, or producing them using their cell phones. Two other laws may be invoked, depending on the circumstances: §18.2-152.7:1, if the sexting involves bullying or harassment; §18.2-374.3, if the sexting involves an adult who has solicited images from a child.

What Schools Need to Consider

Schools should have a policy in place to address sexting. Current policies may already cover sexting behavior (e.g., using cell phones improperly, taking pictures of other students, bullying, harassment). Consult your legal counsel to ensure that existing policies clearly delineate what is not acceptable. Prohibitions on sexting also can

be included in a division's acceptable use policy (AUP) or student code of conduct. It is a good idea to clearly define the behavior and consequences.

Training all staff how to handle the situation is just as important. How will educators investigate these incidents without incurring personal liability (e.g., failing to report incidents, receiving and/or possessing evidence) or lawsuits against the school (e.g., failing to protect students properly, infringing on student privacy)? When are school personnel justified in confiscating a personal cell phone? To what extent can confiscated cell phones be searched? What is the proper protocol for when incidents should be reported? Who should be notified? Should the incident be handled differently based on who reports it (parents, students, teachers)?

Before any sexting incident occurs, it is advisable that school boards consult with the attorney general's office to determine how to handle sexting cases that come to the attention of school personnel. Such a meeting should also include the local police and the school resource officer, if available. The attorney general's office can help develop a procedure to protect students and school personnel and ensure that current legal requirements are met.

Students, parents, and the community need to be educated about sexting. They should be aware of the consequences to a student's current school standing and future prospects. In many instances, pictures sent specifically to romantic interests or friends actually end up in the hands of adults in the larger community or on the Internet. Once a picture is sent electronically, it is very difficult—if not impossible—to retrieve. Additionally, the legal ramifications of sexting can be severe.